IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

MFA.No. 1047 of 2002(A)

I.C.NO.1/1999 OF EMPLOYEES INSURANCE COURT, ALAPPUZHA
.....

APPELLANT/ RESPONDENT:

THE ASSISTANT REGIONAL DIRECTOR,
E.S.I.CORPORATION, PANCHADEEP BHAVAN,
NORTH SWARAJ ROUND, THRISSUR.

BY ADV. SRI.P.SANKARANKUTTY NAIR.

RESPONDENT/ APPLICANT:

CHAKOLAS SPINNING AND WEAVING MILLS LTD.,
POST BOX NO.3, KALAMASSERRY,
REPRESENTED BY ITS MANAGING DIRECTOR,
MR.JOHN CHAKOLAS.

BY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 21/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

prv.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.No.1047 OF 2002

Dated 20th November, 2007

JUDGMENT

Koshy,J.

Respondent is a covered establishment. As per the inspection report it was noticed that contributions in respect of temporary employees and re-employed persons were not covered under the Employees' State Insurance Act and, therefore, notice was issued on 2.12.1997 for payment of contribution on the wages paid to them and recovery proceedings were initiated. Though employer paid the contributions, demand was made for payment of interest up to 28.2.98. It was contended that regular inspections were conducted and they were not told that these persons are liable to be covered. It is also contended that the temporary employees mentioned therein are only employees sporadically taken for work. The Employees' Insurance Court held that the establishment is a covered establishment and, therefore, contribution is payable for all payments made under the head `wages'. Since in the earlier inspections it was not noticed, the E.I. Court held that interest is payable only from the date of notice. Further, after hearing the parties and considering the evidence, the E.I. Court came to the conclusion that there was no bona fide evasion of payment of contribution. They have already paid the contribution as soon as the demand was made and,

therefore, damages which is penal in nature need not be imposed. We see no ground to interfere with the impugned judgment on the peculiar facts of this particular case. In any event, appeal was admitted on 12.1.2007. Notice is not served so far. In these circumstances, we dismiss the appeal.

J.B.KOSHY
JUDGE

K.HEMA
JUDGE

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